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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,836	12/07/2001	Amir G. Khan	FDN-2671	7454

7590

06/24/2003

Att: William J. Davis, Esq.
GAF MATERIALS CORPORATION
Legal Department, Building No. 10
1361 Alps Road
Wayne, NJ 07470

EXAMINER

SASTRI, SATYA B

ART UNIT

PAPER NUMBER

1713

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,836

Applicant(s)

KHAN ET AL.

Examiner

Satya B Sastri

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

1. This Office Action is in response to application filed on December 7, 2001. *Claims 1-20* are now pending.

Specification

2. The disclosure is objected to because of the following informalities:

(1) On page 9, the table has component 3 spelt incorrectly.

Appropriate correction is required.

(2) The use of the trademark (Kwik Dri 66, Pa-14 and Minugel 35 on page 9, components 2, 3 and 4, respectively,) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. *Claims 1-20* are rejected under 35 U.S.C. 103(a) as being obvious over Abbott (US 4,430,465) in view of Fields (US 6,306,937 B1).

The disclosure of Abbott is in regard to an asphalt composition made by mixing together, asphalt, at least one alkadiene-vinylarene copolymer, a petroleum hydrocarbon resin an amine based antistripping agent. The composition may be useful for road repair and waterproofing purposes (abstract). Suitable copolymers include styrene isoprene block copolymers (column 3, lines 11-15, lines 15-29). Suitable hydrocarbon resins are unsaturated synthetic polymeric products derived from cracking of natural gas, oil or petroleum naphthas (column 3, lines 61-69, column 4, lines 1-32). The composition of this invention may be prepared by mixing together in any order the components of the composition. Typical useful amounts of the various components are disclosed in Table 1, column 5. In a preferred embodiment, natural organic fibers may be included in the compositions (column 5, lines 59, 60).

The difference between the prior art and the present invention is the inclusion of 1 to 10 weight % metal silicate and 0.1 to 5 wt.% of an alkoxyalkyl amine substituted ester of a C₂ to C₁₂ carboxylic acid in the adhesive composition.

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The disclosure of Fields is in regard to oxidized all-weather cutback asphalts for application in roofing, waterproofing, and sealing applications in all weather conditions and other sealants. The asphalt compositions may be advantageously modified by the addition of rubber or other polymers, and by the addition of various fillers to improve sag, creep control and other properties in the finished cutback asphalt installation (column 2, lines 43-58). Relative proportions of the various components of the composition are described in Table 1, column 13. In regard to the fillers, cellulosic fibers, diatomaceous earth, limestone etc. may be used in the formulations. The disclosure includes that it is advantageous to prepare cellulose containing formulations by adding a quantity of colloidal attapulgite clay gelling compound to aid the suspension of cellulose fibers. Additionally, the dispersion of the colloidal attapulgite clay in the formulations is improved by the addition of an active cationic salt surfactant such as PA-14 (column 5, lines 34-57 and column 7, lines 15-20). In light of the benefits of including colloidal clay and cationic surfactant as disclosed by Fields, it would have been obvious for one of ordinary skill in the art at the time the invention was made to include such components in the adhesive compositions of Abbott and thereby obtain the present invention (*claims 1-20*).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satya Sastri at (703) 305-8490.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached at (703) 308-2450.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 308-2351.

SATYA SASTRI

June 19, 2003



DAVID W. WU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700